SBCivil Writ Petition No.1756/2006

The New India Assurance Co.Ltd., Jodhpur
Vs.
Idan Ram & Ors.

Date of Order :: 29th August, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Varun Gupta, for the petitioner.

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By this petition for writ a challenge is given to the award dated 17.12.2005 passed by learned Judge, Motor Accident Claims Tribunal, Bikaner.

In brief, facts of the case are that claimant Idanram and his family was travelling in goods vehicle No.RNC-6115 on 1.4.2003. The vehicle above met with an accident, consequent thereto the claimant received certain injuries and his son Pappuram died at the spot. The learned Judge, Motor Accident Claims Tribunal, Bikaner by award impugned absolved the appellant from the liability to pay compensation as the claimants were travelling in a goods transport vehicle, however, while fixing liability upon owner and driver of the vehicle the Tribunal directed the appellant to make payment of compensation awarded and then to recover the same from the owner and driver of the vehicle concerned.

The contention of counsel for the petitioner is that once the appellant has been absolved from liability to pay compensation then there was no occasion to issue a direction for payment of the awarded compensation on behalf of the driver and owner to the claimant and then to recover the same from the driver and claimant. Learned counsel for the petitioner with all frankness and quite fairly at the outset stated that a writ petition (SBCWP No.1765/2006, The New India Assurance Co. Ltd. v. Indra & Ors.) of same nature against the same award has already been dismissed by this Court by order dated 2.8.2006, that reads as under:-

> "Heard.
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> The award which is under challenge is of Rs.7,656/-. The Motor Accident Claims Tribunal after consideration of the relevant fact has awarded this amount. Since no appeal lies for such a paid amount, the petitioner has come up in writ petition. This Court is not inclined to exercise powers under Article 226 of the Constitution of India against such a order. However, this order will not prejudice the case of the petitioner.
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> The writ petition is disposed off accordingly."

In view of the fact that a writ petition of similar nature against the same award has already bee

dismissed, therefore, the instant petition for writ is also dismissed in terms of the order dated 2.8.2006 passed by this Court in the case of New India Assurance Co. Ltd. v. Indra & Ors.(supra).

(GOVIND MATHUR),J.

kkm/ps.